



THE SITUATION OF HUMAN RIGHTS DEFENDERS

PHILIPPINES

Committee on Economic, Social and Cultural Rights -
September 2016

This is a joint submission made by the International Service for Human Rights, the Medical Action Group, the Philippine Alliance of Human Rights Advocates and the Asia Indigenous Peoples Pact. This submission is made on the occasion of the consideration of the List of Issues (LOI) for the Philippines at the 59th Pre-Sessional Working Group of the UN Committee on Economic, Social and Cultural Rights (the Committee). This submission addresses the issue of human rights defenders (HRDs) working on economic, social and cultural (ESC) rights in the Philippines and provides additional information in response to the List of Issues prepared by the Committee¹, and the reply of Philippines to the List of Issues (Government Reply)².

This submission seeks to ensure that the Concluding Observations include concrete recommendations for the Philippines to improve the protection of HRDs. HRDs working on ESC rights in the Philippines are subject to threats, harassment, arbitrary detention, murder and enforced disappearances, but perpetrators remain free as the deep-rooted culture of impunity remains a central issue. HRDs face trumped-up charges and criminalisation. These measures restrict NGOs working on human rights³, and seek to intimidate HRDs and 'delegitimise and criminalise human rights work'⁴. Due to a lack of legislation regarding access to information, HRDs working on corporate accountability, for example in mining, face significant barriers to their work⁵. The lack of legislation also impacts the right of indigenous people to free, prior, informed consent, which is often overlooked or manipulated.

LOI – ENFORCEMENT OF DISAPPEARANCES ACT (GENERAL INFORMATION I (4))

Measures envisaged to ensure the effectiveness of enforcement Anti-Enforced or Involuntary Disappearances Act

Whether this Act will end impunity in cases of killings and disappearances of, among others, HRDs advocating for ESC rights⁶

GOVERNMENT RESPONSE (PARA 4, PG 2)

- An Inter-Agency Committee on extrajudicial killings, enforced or involuntary disappearances: (a) keeps an inventory of and monitors cases and identifies patterns of impunity, vulnerabilities and areas for policy improvement; and (b) conducts special courses International Criminal Law and Security. The Philippine Judicial Academy trains legal representatives on substantive offenses, torture, persecution and extra judicial killings⁷.

The CHR's annual report noted a decline in extra judicial killings.

ADDITIONAL CIVIL SOCIETY INPUT

- Enforced disappearances of HRDs remains an issue that has not diminished⁸. The UN Working Group on Enforced or Involuntary Disappearances (WGEID) made requests to visit the country in 2013 and 2015⁹ while the United Kingdom made a recommendation in the Philippines' second Universal Periodic Review (UPR) to allow a visit of the WGEID and the Special Rapporteur on HRDs – however the Philippines did not accept this recommendation¹⁰.
- The WGEID published a 'Study on enforced or involuntary disappearances and economic, social and cultural rights' which confirmed that people actively defending ESC rights are at a greater risk of enforced disappearance¹¹, which is used as a repressive tool to intimidate and prevent others from requesting and enjoying their ESC rights.¹²

LOI – SENTENCES PASSED ON PERPETRATORS (GENERAL INFORMATION I (4))

PROVIDE INFORMATION ON WHETHER SENTENCES HAVE BEEN PASSED ON PERPETRATORS¹³

GOVERNMENT RESPONSE (PARA 4, PG 2)

- Reportedly eight convictions for extra judicial killings and 12 for media killings have been made with penalties from prison to reclusion perpetua.¹⁴

ADDITIONAL CIVIL SOCIETY INPUT

- Global Witness reports that since July 2010, 28 women HRDs have been killed with impunity in the country¹⁵ and out of 67 confirmed killings, only 2 perpetrators have been convicted. Impunity remains a strong feature in the majority of the killings¹⁶.
- The lack of investigations into the legitimacy of charges filed by non-State actors against HRDs also remains a worrying trend. This exacerbates a deep-rooted culture of impunity for official or elite actors¹⁷.

LOI – PROTECTION OF HUMAN RIGHTS DEFENDERS (GENERAL INFORMATION I (4))

MEASURES TAKEN TO PREVENT ATTACKS AGAINST HRDS AND END IMPUNITY FOR CRIMES AGAINST ALL HRDS¹⁸

GOVERNMENT RESPONSE

- No response was provided to this Issue.

ADDITIONAL CIVIL SOCIETY INPUT

- The situation for HRDs and risks they continue to face indicate the lack of prevent measures taken. Front Line Defenders ranked the Philippines as the second most dangerous country in terms of the number of murdered HRDs¹⁹ and one of the most dangerous to be a land and environmental defender²⁰.

- In 2015, Front Line Defenders documented that 156 HRDs were killed worldwide; 31 were from the Philippines²¹. The most frequent and vulnerable victims of extrajudicial killings are indigenous, land and environmental HRDs.
- The Philippines accepted two recommendations focused on the protection of journalists and HRDs, especially regarding enforced disappearances and extrajudicial killings in its UPR in 2012²². In its statement on the adoption of the UPR report in September 2012 the Philippines committed to investigating cases of extra judicial killings as well as bringing perpetrators to justice. Sadly, the findings of several NGOs since then, especially in the past year, document many cases of attacks, threats, extra judicial killings, and harassment of HRDs²³. These findings have been denounced by local and regional NGOs, including the Asia Indigenous Peoples Pact (AIPP). In October 2015, AIPP called for an end to the continued killings of and other abuses against Lumads in Mindanao, and for a transparent investigation in the accountability of the paramilitary forces and the Philippine Army, citing the shooting of Lito Abion, a Lumad leader and HRD, by two unidentified gunmen. AIPP states that the non-recognition of indigenous peoples' rights to their ancestral lands remains a major issue²⁴, a battle at which women HRDs defenders are the forefront of²⁵.

- This year, the killing of Gloria Capitan, a woman HRD, anti-coal activist and president of the people's organization Samahan ng Nagkakaisang Mamamayan ng Lucanin (SNML) in Purok 2, Barangay Lucanin, Mariveles, Bataan, illustrates the strength of this culture of impunity. Various NGOs, such as Medical Action Group (MAG), Task Force Detainees of the Philippines (TFDP), and Coal Free Bataan Movement (CFBM) called for urgent Government action to bring the perpetrators to justice and protect her family²⁶.

- Based on documentation from September 2013 - May 2016 by MAG and TFDP, there are 63 documented cases of human rights violations against HRDs allegedly perpetrated by private armed goons and security guards; the majority in connection with mining and land issues.

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CONCLUDING OBSERVATIONS: ISSUES FOR CONSIDERATION

- We seek that the Committee consider incorporating the following when drafting their Concluding Observations:
 - A recommendation that the Government take measures immediately to prevent attacks against HRDs and end impunity for crimes against all HRDs
 - Concern regarding threats, harassment, arbitrary detention, murder and enforced disappearances of HRDs
 - A recommendation that the Government should establish an effective National Mechanism for Reporting and Follow up (NMRF)

- A recommendation that, in consultation with civil society the Government should develop and implement a specific national law on human rights defenders and establish, mandate and resource a mechanism for their protection.
- A recommendation that the Philippines strengthen and increase communications and cooperation with the UN human rights mechanisms, including by accepting requests for country missions by Special Procedures mandate holders and by responding promptly and substantively to allegation letters and urgent appeals.
- A recommendation that the Philippines appoint a high-level National HRD Focal Point, being a senior-level official responsible for promoting implementation of the Declaration on HRDs and other relevant standards at the national level, and for promoting international cooperation and sharing lessons learned in this area.

1. List of issues in relation to the combined fifth and sixth period reports of the Philippines: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/087/04/PDF/G1608704.pdf?OpenElement>

2. Government Reply: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f-PHL%2fQ%2f56%2fAdd.1&Lang=en

3. Briefing paper on Philippines – ISHR (2016): The Situation of Human Rights defenders http://www.ishr.ch/sites/default/files/article/files/philippines_update.pdf p.4

4. Ibid, p. 6.

5. Ibid, p.7.

6. Above n 1.

7. Above n 2.

8. Global Witness, 'Deadly Environment: The Dramatic rise in killings of environmental and land defenders': <https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/>

9. http://spinternet.ohchr.org/_Layouts/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en

10. Recommendations to the Philippines: http://www.upr-info.org/database/index.php?limit=0&f_SUR=137&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=100&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly

11. A/HRC/30/38/Add.5 at para 75.

12. Ibid, para 33.

13. Above n 1.

14. Above n 2.

15. Ibid.

16. Above n 8.

17. Ibid. p.8

18. Above n 1.

19. Front Line defenders – 2016 Annual Report <https://www.frontlinedefenders.org/en/resource-publication/2016-annual-report> p. 5.

20. Global Witness, 'Filipinos on the Front Line', <https://www.globalwitness.org/en/campaigns/environmental-activists/filipinos-front-line/>

21. Above n. 19

22. Above n 10.

23. AIPP, 2016 : <http://aippnet.org/voices-of-indigenous-women-human-rights-defenders-from-the-philippines/>, The Medical Action Group, 2016 : <http://magph.org/news/205-human-rights-group-condemns-the-killing-of-woman-human-rights-defender-appeals-to-duterte-for-justice> and TFDP, 2016: <http://www.tfdp.net/campaigns/other-campaigns/519-urgent-appeal-the-ejk-of-gloria-capitan-hrd-and-president-of-the-samahan-ng-nagkakaisang-mamamayan-ng-lucanin-snml-in-mariveles-bataan>

24. AIPP, 2016: <http://aippnet.org/voices-of-indigenous-women-human-rights-defenders-from-the-philippines/>

25. Ibid.

26. TFDP, 2016: <http://www.tfdp.net/campaigns/other-campaigns/519-urgent-appeal-the-ejk-of-gloria-capitan-hrd-and-president-of-the-samahan-ng-nagkakaisang-mamamayan-ng-lucanin-snml-in-mariveles-bataan> and the Medical Action Group, 2016 : <http://magph.org/news/205-human-rights-group-condemns-the-killing-of-woman-human-rights-defender-appeals-to-duterte-for-justice>

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